


**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** El Paso Water Utilities: Submitted: June 20, 2005

**AGENDA DATE:** **June 28, 2005 ~ Introduction: July 12, 2005~Public Hearing**

The El Paso Water Utilities is requesting this matter be placed on the City Council Agenda (INTRODUCTION) for June 28, 2005. The City Attorney's Office has reviewed the Special Warranty Deed and appropriate revisions have been made to the corresponding documents.

**CONTACT PERSON/PHONE:** Robert D. Andron, General Counsel   
El Paso Water Utilities, (915) 594-5607

**DISTRICT(S) AFFECTED:** District #4

**SUBJECT:**

An Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to EPT Land Assets, L.P., land totaling approximately 4.69 acres out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, located in northeast El Paso at McCombs and Patriot Freeway. **(District 4)** [El Paso Water Utilities, Robert D. Andron, (915) 594-5506]

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

By Resolution dated April 27, 2005, the El Paso Water Utilities Public Service Board, (PSB), which has jurisdiction over a certain parcel of land described as being approximately 4.69 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas; found the parcel to be inexpedient to the water system and approved the sale of the land to the highest bidder; and,

EPT Land Assets, LP, was the highest bidder for the property with a total bid of \$1,074,599.00.

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

On May 3, 2005, the City Council approved the sale of four (4) parcels of land totaling approximately 460 acres (for the proposed construction of housing) which are located near this request. This particular 4.69 acres is proposed for commercial use.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer? n/a**

(continued on following page)

**BOARD / COMMISSION ACTION:**

Authorized the sale of 4.69 acres of land by resolution on April 27, 2005, by the  
El Paso Water Utilities Public Service Board.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_

**FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD** \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

Attachments

p:\20052006JUNE2005\City Council\Items\4.69AcreSaletoEPTNE\MemoAgendaItemRequest4.69AcreSaleNortheastElPaso.doc

Pass an Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to EPT Land Assets, L.P., land totaling approximately 4.69 acres out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, located in northeast El Paso at McCombs and Patriot Freeway.

City Manager Joyce Wilson  
Department Memo, June 20, 2005  
Request for Item for City Council Agenda  
INTRODUCTION: June 28, 2005;  
PUBLIC HEARING: July 12, 2005  
District #4  
Page 2

**REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA**

**INTRODUCTION: June 28, 2005; PUBLIC HEARING: July 12, 2005**

Attached is a copy of the PSB Resolution approved on April 27, 2005, along with the Ordinance and Special Warranty Deed. Once approved, necessary arrangements will be made with the City Clerk's Office for document distribution and recording. The City Attorney's Office has reviewed the Special Warranty Deed and appropriate revisions have been incorporated into the corresponding documents.

The El Paso Water Utilities is requesting this matter be placed as an INTRODUCTION on the City Council Agenda for June 28, 2005 and PUBLIC HEARING for July 12, 2005.

Please advise this office upon completion of your review and approval of the placement of this item on the City Council Agenda and my secretary will contact the City Clerk and make arrangements to have document packets hand-delivered to the City Clerk's Office and email backup documents as noted to those listed below. If there are any questions, please call me at 594-5607 or email [bandron@epwu.org](mailto:bandron@epwu.org).

I will plan to attend the City Council meetings. Thank you for your kind attention to this matter.

**Attachments**

Cc: The Honorable Mayor John F. Cook (email)  
City Council Representatives (email)  
Pat Adatao, Deputy City Manager for Building & Planning Services (email)  
Matt Briones, Executive Assistant to the Mayor (email)  
Lisa A. Elizondo, City Attorney (email)  
Theresa Cullen-Garney, Deputy City Attorney (email)  
Richarda Duffy-Momsen, City Clerk (hard copies & email)  
Nicholas J. Costanzo, Assistant General Manager (email)  
Jim Shelton, Land Administration, PSB (email)

p:\20052006\MAY2005\CityCouncilItems\4.69AcreSaletoEPTNE\BackupDeptMemo4.69AcreSaleNortheastElPaso.doc

## RESOLUTION

A RESOLUTION AUTHORIZING THE SALE TO EPT LAND ASSETS, LP, THE HIGHEST BIDDER FOR 4.69 ACRES OF LAND, MORE OR LESS, OUT OF SECTION 21, BLOCK 81, TSP1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO, EL PASO COUNTY, TEXAS, SAID REAL PROPERTY BEING UNDER THE JURISDICTION OF THE PUBLIC SERVICE BOARD; REQUESTING THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED; AND PROVIDING AN EFFECTIVE DATE.

\*\*\*\*\*

WHEREAS, the El Paso Water Utilities Public Service Board (PSB), Trustee, has jurisdiction over certain parcels of land in northeast El Paso; and

WHEREAS, the Public Service Board approved the sale of 4.69 acres of land in Northeast El Paso at the corner of Patriot Freeway and McCombs Street; and,

WHEREAS, the PSB finds that this parcel of land is inexpedient to the water system and it is in the public interest that said land should be sold to the highest bidder, and

WHEREAS, the PSB received bids on March 24, 2005, which were in excess of the estimated market value established by an independent appraisal.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO EL PASO WATER UTILITIES:

Section 1. That the findings and recitations set out in the preamble to this Resolution are true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the Public Service Board hereby finds the land the subject of this Resolution to be inexpedient to the needs of the water utility system and hereby approves the conveyance of land described as follows:

Being a portion of Section 21, Block 81, TSP1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, being approximately 4.69 acres of land to EPT Land Assets, LP, in the amount of \$229,126.00 per acre for a total sales price of \$1,074,599.00.

Section 3. That the Public Service Board hereby requests the City Council authorize the City Manager to sign a Special Warranty Deed and any other necessary documents to convey the property to EPT Land Assets, LP.


Section 4. That a copy of this Resolution shall be transmitted to the City Attorney's Office.

PASSED AND APPROVED at regular meeting of the Public Service Board of the City of El Paso, Texas, this 27th day of April, 2005, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

PUBLIC SERVICE BOARD

  
Chair Fermin Acosta, Jr.

ATTEST:

  
Secretary Ruben Guerra

APPROVED AS TO FORM:

  
Robert D. Andron, General Counsel

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A SPECIAL WARRANTY DEED CONVEYING TO EPT LAND ASSETS, LP, LAND TOTALING APPROXIMATELY 4.69 ACRES OUT OF SECTION 21, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO AT MCCOMBS AND PATRIOT FREEWAY.**

**WHEREAS**, by Resolution dated April 27, 2005, the El Paso Water Utilities Public Service Board, (PSB), which has jurisdiction over a certain parcel of land described as being approximately 4.69 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas; found the parcel to be inexpedient to the water system and approved the sale of the land to the highest bidder; and,

**WHEREAS**, EPT Land Assets, LP, was the highest bidder for the property with a total bid of \$1,074,599.00; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager is hereby authorized to sign a Special Warranty Deed conveying to EPT Land Assets, LP, the highest bidder, land described as being approximately 4.69 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas. Said property is located in northeast El Paso at McCombs and Patriot Freeway. The City Manager is further authorized to sign any and all documents required to accomplish the conveyance of said property.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

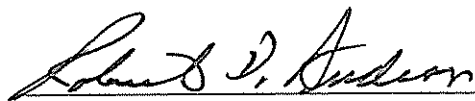
THE CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
John F. Cook, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron  
General Counsel, El Paso Water Utilities

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED OF RECORD IN THE PUBLIC RECORDS: SOCIAL SECURITY NUMBER AND DRIVER'S LICENSE NUMBER.**

***SPECIAL WARRANTY DEED***

Date: \_\_\_\_\_, 2005

Grantor: The City of El Paso, Texas, a Texas municipal corporation  
On Behalf of El Paso Water Utilities Public Service Board

Grantor's Mailing Address (including county): Two Civic Center Plaza  
El Paso, Texas  
El Paso County, Texas 79901-1196

Grantee: EPT Land Assets, LP

Grantee's Mailing Address (including county): 109 N. Oregon, 12<sup>th</sup> Floor  
El Paso, Texas 79901  
El Paso County, Texas

Consideration: TEN AND NO/100 DOLLARS and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Property: Being approximately 4.69 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas; and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference for all purposes.

Restrictions and Reservations from and Exceptions to Conveyance and Warranty:

1. This conveyance is subject to all easements, restrictions, reservations, dedications and other encumbrances of record or apparent upon the Property and all presently recorded instruments, other than lien and conveyances that affect the property.
2. Grantee shall not, discard, place or store upon such land, any radioactive material or other hazardous waste material which would contaminate or otherwise damage the ground water supply or sources of the City of El Paso.
3. Development of the property shall be governed by the following restrictions as to turf:
  - a. Turf Areas, exclusive of non-irrigated or non-maintained landscape areas, shall not exceed the following percentages of the landscape area provided:
    - i. Commercial, office, and industrial: 33⅓%
    - ii. Apartments, duplexes and other multi-family dwellings, single-family detached or attached dwellings, and all other residential dwellings, including mobile and modular homes: 50%
    - iii. All other developments excluding parks, golf courses, and cemeteries: 15%

- b. Turf and/or sprinkler spray heads shall not be installed in the following locations:
  - i. Along street curbs;
  - ii. In areas whose width is less than 8 feet; and
  - iii. In rights-of-way whose slopes are a ratio of 1:3 or greater from the horizontal.

4. Grantor reserves for itself, its successors and assigns, all ground water, surface water and water rights that are in or under the property, or that may be produced from the property, including any right to receive water.

5. Grantee acknowledges that he has examined the property and accepts the land "AS IS" including, but not limited to, the present zoning and surface conditions.

8. Grantee agrees that should development of the property not begin within two (2) years of closing, the property shall revert to the City of El Paso, on behalf of its El Paso Water Utilities without further notice or legal action of any kind at the same price per acre as purchased from the City of El Paso, El Paso Water Utilities-Public Service Board.

9. Water, and sanitary sewerage service will be provided in accordance with the most current Public Service Board Rules and Regulations of the El Paso Water Utilities at the time of application for service to the Developer and Land Administration Services Section of the El Paso Water Utilities.

10. Grantee shall be responsible for the costs of any necessary on-site & off-site extensions, relocations, replacements or adjustments of water and sanitary sewer mains and appurtenances as a result of the proposed subdivision improvement plans.

11. In order to promote water conservation, to ensure optimum water-use efficiency, and to prevent runoff into streets, it is the policy of the PSB to require landscape and irrigation restrictions in the sales of undeveloped land. Development of the property will be governed by the El Paso Municipal Code Title 15 (Public Services), Chapter 12 (Water and Sewer System) and Chapter 13 (Water Conservation), including no more than 50% turf in irrigated or maintained landscapable area.

12. Grantee shall grant easements for water, and sewer facilities to the El Paso Water Utilities, City of El Paso, necessary to serve any and all of the land as shown on Exhibit "A" hereto parcels as requested by El Paso Water Utilities at the time of subdivision plat submittal by Grantee. Grantee hereby grants a twenty-five foot wide easement to Grantor as shown on Exhibit "A" attached hereto.

Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and hold it to Grantee, Grantee's, heirs, executors, administrators, successors and assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and Exceptions to Conveyance and Warranty, when the claim is by, through, or under Grantor but not otherwise.

Signatures on following page



THE CITY OF EL PASO

\_\_\_\_\_  
Joyce Wilson, City Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron, General Counsel, PSB

This Deed is hereby accepted by Grantee under the terms, covenants, obligations and conditions stated herein:

EPT LAND ASSETS, LP

Attest:

\_\_\_\_\_  
BY:

\_\_\_\_\_  
**ACKNOWLEDGMENTS**

STATE OF TEXAS            }  
                                     }  
COUNTY OF EL PASO       }

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by  
Joyce Wilson, the City Manager of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS            }  
                                     }  
COUNTY OF EL PASO       }

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by  
\_\_\_\_\_, the General Partner of EPT Land Assets, LP.

\_\_\_\_\_  
Notary Public, State of Texas

HUITT - ZOLLARS INC.

5822 Cromo Drive, Suite 210

El Paso, Texas 79912

Phone: (915)587-4339

Fax: (915)587-5247

4.690 acres out of Section 21, Block 81, ) Job No.: 09-0124-11

Township 1, Texas and Pacific Railway Company )

Surveys, City of El Paso, El Paso County, Texas ) Field Note Description

All that certain tract or parcel of land containing 4.690 acres out of Section 21, Block 81, Township 1, of the Texas and Pacific Railway Company Surveys, El Paso County, Texas, and lying within the corporate limits of the City of El Paso, El Paso County, Texas, same being out of and a part of that certain tract described in deed to the City of El Paso of record in Volume 1186, Page 183, of the Deed Records of El Paso County, Texas, and being more particularly described as follows:

The POINT OF BEGINNING being the intersection of the west right-of-way of FM 2529, a.k.a. McCombs Street (150 feet wide) with the south right-of-way line of Gateway Blvd. North; witnessed by a found rebar with cap marked "SLI" bears North 33°17'53" West 0.53 feet, and from which point of beginning the following two survey ties are offered:

1) a Texas Department of Transportation brass cap found marking the centerline intersection of FM 2529 and the Patriot Freeway (400 feet ROW) bears North 88°54'24" East, 75.00 feet, and North 01°05'36" West 456.01 feet;

2) another Texas Department of Transportation brass cap found marking the centerline of FM 2529 (at or near section corner) bears North 88°54'24" East 75.00 feet and North 01°05'36" West 1444.35 feet;

Thence with the west right-of-way of FM 2529, South 01°05'36" East 468.85 feet to a set 5/8-inch rebar with a yellow Huitt-Zollars, Inc. plastic cap;

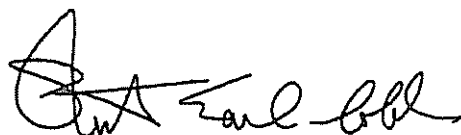
Thence South 88°54'24" West 704.00 feet to a set 5/8-inch rebar with a yellow Huitt-Zollars, Inc. plastic cap on the southeast right-of-way of US Highway 54;

Thence with the southeast right-of-way line of US Highway 54 (Gateway North/Patriot Freeway), North 48°32'03" East, (at 218.00 feet a found rebar with cap marked "SLI" lies 0.64 feet left, a Texas Department of Transportation brass cap lies 60.00 feet to left, another Texas Department of Transportation brass cap lies 200.00 feet left, another Texas Department of Transportation brass cap lies

340.00 feet left), continuing in all 794.35 feet to a point for corner, witnessed by a found rebar with cap marked "SLI" that bears North 45°21'26" West, 0.99 feet;

Thence, with the right-of-way return from US 54 to McCombs, South 66°16'46" East 108.88 feet to the POINT OF BEGINNING and containing 4.690 acres.

I, Stephen Earl Cobb, a Registered Professional Land Surveyor, do hereby certify that this description is a true and correct representation of a survey made on the ground by Huitt-Zollars under the supervision of Michael M. Ivey on September 10, 2002, and reviewed and certified by me for this release. Basis of bearings are the City of El Paso brass cap monuments found in Patriot Village, Unit 1, Amending Subdivision and Patriot Village, Unit 2. This description accompanies a survey plat with same date of revision.



November 3, 2004  
Stephen Earl Cobb, RPLS  
Texas Registration No.: 4297



HUITT - ZOLLARS INC.

5822 Cromo Drive, Suite 210

El Paso, Texas 79912

Phone: (915)587-4339

Fax: (915)587-5247

**0.707 acres** out of Section 21, Block 81, ) Job No.: 09-0124-11  
Township 1, Texas and Pacific Railway Company ) El Paso Water Utilities 25 foot wide easement  
Surveys, City of El Paso, El Paso County, Texas ) Metes and Bounds Description

The 0.707 acre El Paso Water Utilities Easement herein described lies within Section 21, Block 81, Township 1, of the Texas and Pacific Railway Company Surveys, El Paso County, Texas, in the City of El Paso, El Paso County, Texas, is a portion of that certain tract described in deed to the City of El Paso of record in Volume 1186, Page 183, of the Deed Records of El Paso County, Texas, is a portion of a 4.690 acre commercial site, and is more particularly described as follows:

The POINT OF BEGINNING being the intersection of the west right-of-way of FM 2529, a.k.a. McCombs Street (150 feet wide) with the south right-of-way line of Gateway Blvd. North; witnessed by a found rebar with cap marked "SLI" bears North 33°17'53" West 0.53 feet, and from which point of beginning the following two survey ties are offered:

1) a Texas Department of Transportation brass cap found marking the centerline intersection of FM 2529 and the Patriot Freeway (400 feet ROW) bears North 88°54'24" East, 75.00 feet, and North 01°05'36" West 456.01 feet;

2) another Texas Department of Transportation brass cap found marking the centerline of FM 2529 (at or near section corner) bears North 88°54'24" East 75.00 feet and North 01°05'36" West 1444.35 feet;

Thence with the west right-of-way line of FM 2529, South 01°05'36" East 468.85 feet to a set 5/8-inch rebar with a yellow Huitt-Zollars, Inc. plastic cap;

Thence, with the south boundary line of said 4.690 acre commercial site, South 88°54'24" West 704.00 feet to a set 5/8-inch rebar with a yellow Huitt-Zollars, Inc. plastic cap on the southeast right-of-way of US Highway 54;

Thence, with the southeast right-of-way line of US Highway 54 (Gateway North/Patriot Freeway), North 48°32'03" East 38.59 feet;

Thence, with a line that lies 25 feet north of and parallel with the south boundary line of said 4.690 acre commercial site, North 88°54'24" East 649.60 feet to a set 1/2" dia. rebar with plastic cap;

Thence, with a line that is 25 feet west of and parallel with the west right-of-way line of McCombs Street, North 01°05'36" West 427.87 feet to a set 1/2" dia. rebar with plastic cap;

thence, with a line that is 25 feet southwest of and parallel with the return right-of-way from McCombs Street to said U.S. Highway 54, North 66°16'46" West 104.45 feet to a set 1/2" dia. rebar with plastic cap;

thence, with the southeast right-of-way line of US Highway 54 (Gateway North/Patriot Freeway), North 48°32'03" East 27.54 feet to a point for corner, witnessed by a found rebar with cap marked "SLI" that bears North 45°21'26" West, 0.99 feet;

Thence, with the right-of-way return from US 54 to McCombs, South 66°16'46" East 108.88 feet to the POINT OF BEGINNING and having area of 30796 square feet or 0.707 acres.

Basis of bearings are the City of El Paso brass cap monuments found in Patriot Village, Unit 1, Amending Subdivision and Patriot Village, Unit 2.

I, Stephen Earl Cobb, a Registered Professional Land Surveyor, do hereby certify that this description is based on a true and correct representation of a survey made on the ground by Huitt-Zollars under the supervision of Michael M. Ivey on September 10, 2002, and reviewed and certified by me for this release.

February 5, 2005



By:

A handwritten signature in black ink, appearing to read "Stephen Cobb", written over a horizontal line.

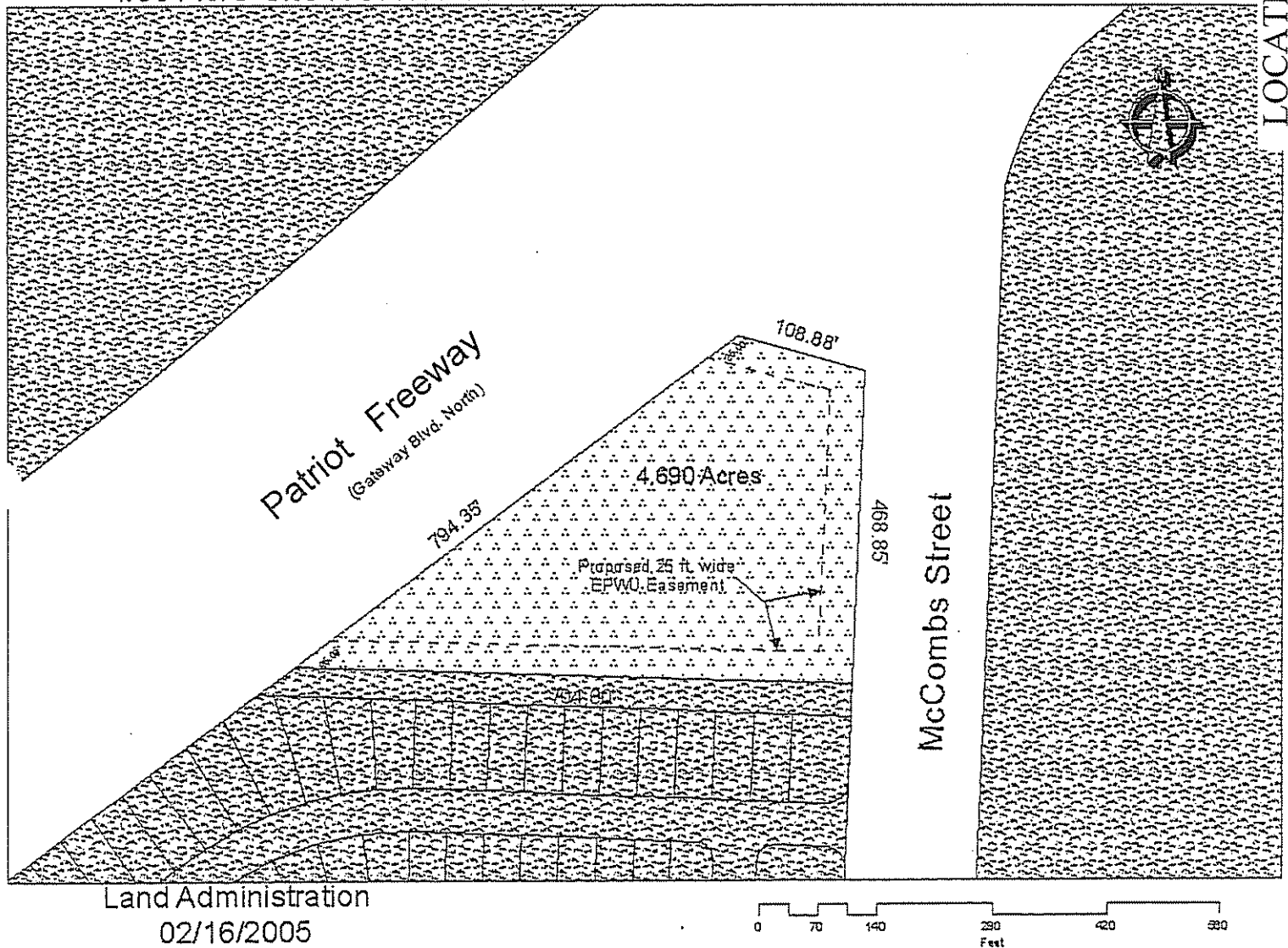
Stephen Earl Cobb  
Registered Professional Land Surveyor  
Texas Registration No.: 4297

Notes:

This description accompanies a survey plat with same date of revision.



4.69 Acre Site NORTHEAST



LOCATION MAP ONLY